



U.S. Department of Justice

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United States Attorney

Southern District of New York

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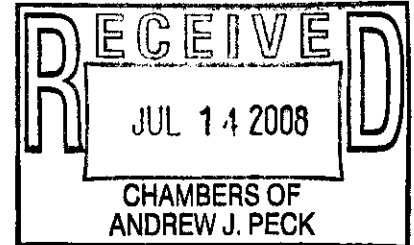
DATE FILED: 7/16/08

86 Chambers Street, 3rd Floor
New York, New York 10007

July 11, 2008

BY HAND

The Honorable Andrew J. Peck
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1370
New York, NY 10007

Re: *Akinyemi v. Chertoff*, 07 Civ. 4048 (AJP)

Dear Judge Peck:

On behalf of the parties, the Government respectfully submits the attached proposed jury instructions. Pursuant to the Court's direction at the June 12 settlement conference, the parties have substantially reduced the areas of disagreement regarding the instructions. The remaining areas of disagreement are plaintiff's objection to the inclusion to Request #12, and plaintiff's objection to certain language defendant proposes to include in Request #15. Both of these areas of disagreement are noted in the attached proposed instructions.

The parties also take this opportunity to make a joint request to the Court regarding the testimony of two witnesses. At the June 12 settlement conference, the Government advised the Court that two witnesses scheduled to be called by the plaintiff – Immigration and Customs Special Agent Gregory Jurczak and Customs and Border Protection Deputy Chief Herbert Herter – have preexisting out-of-state vacation plans during the week of the trial in this case. In order to reduce the inconvenience to these two witnesses, the Government has requested that plaintiff call the two witnesses to testify on the second day of trial, Tuesday, July 29, with the expectation that, if possible, testimony from both witnesses will finish on that day. Plaintiff has agreed to do so. Depending on how the case proceeds, calling these witnesses on July 29 may require an alteration in the order of plaintiff's witness testimony. The parties request that the Court permit plaintiff to call Special Agent Jurczak and Deputy Chief Herter on Tuesday, July 29.

MEMO ENDORSED**BY FAX**

SO ORDERED:

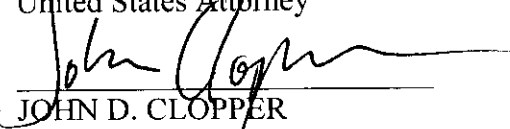
Hon. Andrew J. Peck
United States Magistrate Judge

Thank you for your consideration of these matters.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

By:


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Encl.

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
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Dated: July 16, 2008

Total Number of Pages: 3

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TRANSCRIPTION:

MEMO ENDORSED 7/16/08

Approved.